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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

70-5026

No. ~~5944~~

CLAUDE ALEXANDER,

Petitioner,

versus

STATE OF LOUISIANA,

Respondent.

On Writ of Certiorari to the Supreme Court
of the State of Louisiana

BRIEF ON BEHALF OF RESPONDENT, STATE OF LOUISIANA

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BRIEF ON BEHALF OF RESPONDENT, STATE OF LOUISIANA

STATEMENT OF THE CASE

A petition for writ of certiorari and a motion for leave to proceed in forma pauperis were filed on September 29, 1970, in the United States Supreme Court and were granted by the Court on March 1, 1971. The opinion of the Louisiana Supreme Court is reported at 255 La. 941, 233 So. 2d 891.

Petitioner, Claude Alexander, is under a sentence of life imprisonment imposed by the Fifteenth Judicial District Court in and for the Parish of Lafayette,

Louisiana, following his conviction for rape. That conviction was affirmed on appeal by the Supreme Court of Louisiana.

A factual statement of the physical events surrounding the rape in question is incorporated in toto from the Louisiana Supreme Court opinion at 893. The events are as follows:

> "About midnight on September 3, 1967, a sixteen year old girl accompanied by her date, Carl Arleth, Jr., an eighteen year old young man, after visiting various places of amusement in Lafayette, Louisiana, went to Girard Park where they decided to stop for a few minutes. While walking in the vicinity of the park lake, they were accosted by two young Negroes, Claude Alexander and Lee Perry Pratt.
>
> "These two men informed the couple that they had a gun and grabbed Arleth, robbing him of $4.00. One of the men then assaulted the young girl who began screaming and fighting him off. At that time the other man struck Arleth, knocking him down, and as he lay on the ground, Alexander and his companion assaulted the girl, telling her that she had better do what they wanted or they would shoot both her and her boyfriend. The two men tried to tear off her clothes and succeeded in pulling off her girdle and underwear. Then Alexander had sexual intercourse with the girl while his companion helped to hold her down and quiet her. Following this, the companion had sexual in-

tercourse with the girl while Alexander held her down. This procedure was again alternated. At that point, the girl had only her bra and dress on, but Alexander pulled off the dress and grabbed her by the wrists, dragged her on her bare skin across the blacktopped street for a distance of 185 feet and dumped her into the coulee which was eleven feet deep. About this time she blacked out and Alexander then went down into the coulee at the entrance to a large concrete culvert across the road and, while Alexander was having sexual relations with her, the City Police came upon the scene. Two officers, Sidney Broussard and Patrolman John Broussard, were in the patrol car when Sidney Broussard noticed someone running in the coulee. He stopped the car, got out and spotted his light within the coulee where he saw Alexander lying in a prone position on top of the girl. Upon being d i s c o v e r e d, Alexander got up, zipped the fly of his trousers and entered the North end of the culvert right next to where he had been lying. The other officer then ran to the other end of the culvert. At this time Officer Sidney Broussard loudly called on Alexander to come out. Upon the latter's failure to do so, the officer fired a shot on the side of the culvert into the ground. Then Alexander came out on the North end of the culvert and was placed under arrest by the officers who had him lie on the ground face down. At this time the girl was screaming and began climbing the banks of the coulee, and Sidney Broussard went to her assistance. When he did so, Alex-

ander got up and fled. The officers followed him in close pursuit and finally apprehended him."

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

Petitioner cites in argument the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and also Articles 401-404, 408, 410-411, 413-417, and 419 of the Louisiana Code of Criminal Procedure. Respondent adds Revised Statutes of Louisiana, Title 15, Section 493.

QUESTIONS PRESENTED

Petitioner submits three substantial questions in this appeal:

(1) Was petitioner, who is a Negro, denied due process and equal protection of the laws as guaranteed by the Fourteenth Amendment by being indicted by a grand jury chosen from a venire from which Negro citizens were allegedly systematically excluded in violation of *Whitus v. Georgia*, 385 U.S. 545?

(2) Was petitioner denied due process of law as guaranteed by the Fourteenth Amendment by being indicted by a grand jury chosen from a venire from which women had been allegedly systematically excluded?

(3) Was petitioner denied due process of law as guaranteed by the Fourteenth Amendment where

at trial a statement was allegedly introduced, for impeachment purposes, that he allegedly had given to the police officers shortly after his arrest and where the testimony of the police officer allegedly established that petitioner was not advised that he had the right to have a lawyer present at the time he gave any statement and that petitioner had not affirmatively waived his right to remain silent?

This brief will clearly indicate that petitioner's arguments are entirely without merit and his petition for relief should be denied.

ARGUMENT

PETITIONER WAS INDICTED BY A GRAND JURY SELECTED FROM LISTS OF PERSONS REPRESENTING A FAIR CROSS SECTION OF THE ENTIRE POPULATION OF THE PARISH (COUNTY) OF LAFAYETTE AND ALL HIS RIGHTS UNDER THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT WERE PROTECTED

Petitioner alleges that he was denied equal protection of the law in that Negroes were systematically excluded from the grand jury that indicted him. In order to support this contention he claims he has made out a prima facie showing of racial discrimination in the selection of the grand jury that indicted him. It is our intention to show that the evidence fails to show this.

This case comes out of a jurisdiction where the jury commission as a matter of practice personally solicits

a large segment of the population of the Parish (County) of Lafayette, without regard to race, to become prospective jurors.

The Parish (County) of Lafayette has a population of 44,986 persons over the age of 21 years and hence eligible for service on juries (United States Census reports for 1960 which were admitted in evidence below); 35,513 were white and 9,436 or 21.06 percent were Negro. There were 40,896 registered voters of which 6,541 were Negro and 34,355 were white (A. 30). The jury commission through one of its members, the clerk of court, sent out approximately 11,000 questionnaires (A. 45) to prospective jurors touching upon the qualifications required to serve on juries (A. 8-9). The list of persons to whom these questionnaires were sent were taken indiscriminately and without regard to race from a list of registered voters (every eighth name), a telephone directory containing the names of every subscriber in the parish, the city directory of the City of Lafayette, lists submitted by the school board or any list the commission could find, including recommendations made by members of the jury commission (A. 34, 35 and 37). No questionnaires were sent to women or other groups exempted by law (A. 36). It is clear from the record that the sources from which the prospective jurors were taken represented a broad base representative of the entire Parish of Lafayette. About 50 percent of the questionnaires were returned mostly from persons of the white or Caucasian race (A. 46). In all the jury commission had a card index containing 7,374 names of which 1,015 were Negro (A. 15). This constitutes 13.76 percent.

From the objective information obtained from the prospective jurors (A. 8-9) regarding residence, age, criminal convictions, sex, ability to read and write the English language, mental competency, possible exemptions, possible physical impairment, etc., a determination was made as to whether the person could serve on the jury (A. 48). The questionnaires of those persons the commission thought could not serve were rejected and those they thought could serve were placed together (A. 48). A little four by five inch card was made on each of these apparently qualified prospective jurors and placed in alphabetic order in a card index (A. 36). Then the commission then made a slip of paper with the name, address, ward and precinct shown on each of the cards and these are attached to the card (A. 51, 57 and 58). Then 400 of the slips of paper are placed in the general venire box completely indiscriminately (A. 55 and 56). The 400 names included included the names of 27 Negroes or 6.75 percent and the race of 5 persons was unknown (A. 29-65). The clerk testified that no consideration was given to race during the selection procedure (A. 34, 35, 41, 45, 47-48, 54-57, 59). This evidence was never contradicted. The commission then draws indiscriminately and by lot from the general venire box the names of 20 persons to form the grand jury venire (A. 3, 25) as required by Louisiana Code of Criminal Procedure, Article 411 (B.A. 4a). The 20-man grand jury venire had one Negro on it. (A. 3, 16-24). The district judge chose the foreman on the grand jury from the 20-man grand jury venire and the remaining 11 members were drawn indiscriminately and by lot in open court (A. 3-4). The 12-man grand jury which indicted the petitioner were all white. (A. 3-4, 16-24, 39).

The burden is upon the accused to establish that there has been discrimination in the selection of juries on a racial basis. What constitutes discrimination is a question of fact and the mere fact that there was not proportional representation of all ethnic groups on the jury is not discrimination. *Hernandez vs. State of Texas*, 345 U.S. 475, 74 S. Ct. 667.

On this point the court in *Akins vs. Texas*, 325 U.S. 398, 65 S. Ct. 1276, 89 L. Ed. 1692 on page 1279 of the Supreme Court Reporter said:

> "Defendants under our criminal statutes are not entitled to demand representatives of their racial inheritance upon juries before whom they are tried. But such defendants are entitled to require that those who are trusted with jury selection shall not pursue a course of conduct which results in discrimination in the selection of jurors on racial grounds." (Citation omitted). "Our directions that indictments be quashed when Negroes, although numerous in the community, were excluded from Grand Jury lists have been based on the theory that their continual exclusion indicated discrimination and not on the theory that racial groups must be recognized." (Citation omitted). "The mere fact of inequality in the number selected does not in itself show discrimination. A purpose to discriminate must be present which may be proven by systematic exclusion of eligible jurymen of the proscribed race or by unequal application of the law to such an extent as to show intentional discrimination."

We feel that the following language used by Mr. Justice White as the organ of the court in *Swain vs. Alabama*, 380 U.S. 202, 208, 85 S. Ct. 824, 829, 13 L. Ed. 2d 759 (1964) is pertinent to this case. It reads as follows:

> "'Neither the jury roll nor the venire need be a perfect mirror of the community or accurately reflect the proportionate strength of every identifiable group.' We learn from this that jurors should be selected as men and not as members of a race. Obviously the number of races and nationalities and the variance in qualifications of our citizens would make it impossible to meet a requirement of proportional representation. See *Cassell v. Texas*, 339 U.S. 282, 70 S. Ct. 629, 94 L. Ed. 839 (1949)."

There has developed recently, principally in the federal court system, a body of decisions declaring that there is constitutional duty upon local officials to develop and utilize a system of jury selection that will result in a fair cross section of the community being placed on master lists to be used as a source from which to select grand and petit jurors, and that there be no discrimination against any class or group of persons. *Avery vs. Georgia*, 345 U.S. 559; *Brown vs. Allen*, 1953, 344 U.S. 443, 474, 73 S. Ct. 397, L. Ed. 494. See also *Scott vs Walker*, 358 F. 2d 561 (5 Cir. 1966); *Rabinowitz vs. United States*, 366 F. 2d 34 (5 Cir. 1966).

We contend that the testimony of the clerk of court, a member of the jury commission, affirmatively shows that the jury commission made its master list from

a broad base which represented a cross section of the parish chosen indiscriminately from such lists as the register of voters, telephone directory, city directory and other lists. He testified further that after receiving the questionnaires properly filled out, the commission eliminated those who did not possess the basic qualifications such as ability to read and write and those with physical impairments but that in discarding questionnaires no consideration was given to whether the person was white or Negro. There was no evidence to the contrary.

Petitioner states that this court has long held that where statistically significant disparities between the percentage of Negroes eligible to serve on juries and the percentage on jury rolls has been shown, a prima facie case of racial discrimination has been made. In support of this statement he cites various cases, the latest being *Turner v. Fouche*, 396 U.S. 346, (1970). A close analyzation of this case, however, reveals that the court required more than a mere showing of a disparity between the percentage of Negroes eligible to serve on juries and the percentage on jury rolls, in order to establish a prima facie case of discrimination. In *Turner* the court required that there be a disparity between the percentage of Negro residents in the county and the number on the grand jury, and that the "*disparity originate, at least in part, at the one point in the selection process where the jury commissioners invoked their subjective judgment rather than objective criteria*", in order to make out a prima facie case. The court in *Turner* found that 171 of 178 persons eliminated on the basis of the subjective test of not being "upright or intelligent" were Negroes.

The process which was utilized to choose the grand jury in the instant case afforded no such opportunity for the commissioners to inject their subjective judgment in eliminating prospective jurors. The majority of the potential jurors who were eliminated were exempted by law. Those who were not, were eliminated on the basis of information appearing on the questionnaires which were prepared by the prospective jurors themselves. Those who could not read or write or who suffered from some physical abnormality which would have prevented them from effectively serving as jurors were excluded.

As one can readily see, these were all objective criteria and no broad and vague subjective test such as being "upright and intelligent" was employed to exclude any of the prospective jurors. The petitioner has failed to argue or prove that the qualifications required of the prospective jurors were not objective criteria.

Since the petitioner has not demonstrated that the disparity in the percentages of Negroes on the grand jury and Negroes in the parish originated at a point where the jury commissioners invoked their subjective judgment rather than objective criteria, as was the case in *Turner*, he has not made out a prima facie case.

Petitioner also alleges that the evidence established that there was an "opportunity for discrimination" in violation of *Whitus v. Georgia*, 385 U. S. 545 (1967), and *Avery v. Georgia*, 345 U.S. 559 (1953). In the *Whitus* and *Avery* cases the "opportunity for discrimination" was blatant and conspicuous. The lists of prospective

jurors were obtained by the selection of names from tax return sheets which were white for white taxpayers and yellow for Negro taxpayers. In the *Whitus* case the jury list was also made up from an old jury list which had been condemned as illegal by the Court of Appeals. None of these aggravated circumstances were evident in the instant case and petitioner cannot validly analogize *Whitus* and *Avery* with the case at bar.

Even if the system employed by the Lafayette Parish jury commission created an opportunity for discrimination, this in itself would not be adequate grounds for overturning the conviction. According to the decision in the *Whitus* case, once the petitioner establishes that an opportunity for discrimination existed, he must make out a prima facie case that discrimination occurred in fact. It has been shown in the discussion, supra, that the petitioner has failed to satisfy this requirement.

Petitioner's contention is without merit.

LOUISIANA'S STATUTE GRANTING WOMEN AN ABSOLUTE EXEMPTION FROM JURY SERVICE UNLESS THEY EXPRESSLY WAIVE THAT PRIVILEGE BY INDICATING THEIR DESIRE TO BE PLACED ON THE JURY LIST DOES NOT VIOLATE THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

The statute under attack here is Louisiana Code of Criminal Procedure Article 402 which reads as follows:

> "A woman shall not be selected for jury service unless she has previously filed with the clerk of court of the parish in which she resides a written declaration of her desire to be subject to jury service."

Louisiana Code of Criminal Procedure, Articles 402-403 (set out in the Appendix to this Brief — B.A. 1a) exempts from jury service the following persons or classes of persons: women, the governor, lieutenant governor, state comptroller, state treasurer, secretary of state, superintendent of public education, their clerks and employees, etc.

Women as shown above are granted an absolute exemption which they may expressly waive by filing with the clerk of court of the parish in which they reside a written declaration of their desire to be subject to jury service.

The other persons and classes recited in the statute are exempted but they must claim the exemption. (B.A. 1a)

In the first case, the exemption is in effect unless it is waived and in the second, it must be claimed to be effective.

This statute which grants women an absolute exemption is exactly the same as the one which Florida had in 1961 and which was found to be constitutional by the United States Supreme Court in the case of *Hoyt v. State of Florida*, 368 U.S. 57, 82 S. Ct. 159 (1961).

At the time the *Hoyt* case was decided, eighteen states and the District of Columbia accorded women an absolute exemption based solely on their sex, exercisable in one form or another. In three of these states, Florida, Louisiana and New Hampshire, the exemption was automatic unless a woman volunteered to jury service.

The Florida statute found constitutional by this Court in the *Hoyt* case does not purport to exclude women from state jury service but rather to give to women the privilege to serve but does not impose service as a duty. It accords women an absolute exemption from jury service unless they expressly waive that privilege.

This Court in the *Hoyt* case (82 S. Ct. 162) said:

> "We cannot say that it is constitutionally impermissible for a State, acting in pursuit of the general welfare, to conclude that a woman should be relieved from the civic duty of jury service unless she herself determines that such service is consistent with her own special responsibilities."

This Court further said in the *Hoyt* case that it could not regard it as irrational for a state legislature to consider preferable a broad exemption, whether born of a state's historic public policy or of a determination that it would not be administratively feasible to decide in each individual instance whether the family

responsibilties of a prospective female juror were serious enough to warrant an exemption.

This Court also found in the *Hoyt* case that Florida could reasonably conclude that full effectuation of this exemption made it desirable to relieve women of the necessity of affirmatively claiming it, while at the same time requiring of men an assertion of the exemption available to them; and that Florida could from the standpoint of its administration concern consider that it was impractical to compel large numbers of women, who have an absolute exemption, to come to the clerk's office for examination since they so generally assert their exemption.

Petitioner makes much to-do over the fact that Florida and other states have changed their methods of selection with regard to women over the past ten years since the *Hoyt* decision. The fact that other states have seen fit to change their rules certainly can in no way mean that Louisiana must change her ways in order to conform with what other states are doing. There was a valid state interest in the *Hoyt* case in 1961 for the state to act in the interest of the general welfare and this interest remains today.

There is no evidence in the record to show that Louisiana has arbitrarily undertaken to exclude women from jury service. On the contrary, the jury commission of Lafayette Parish has consistently sought to interest the entire population of the parish to serve on the jury. While no questionnaires were sent out to women and other exempted groups, still the commission

took active steps to interest women in submitting their names for jury service under the provisions of Louisiana law. (A. 54) Since the questionnaires were for the purpose of determining eligibility of persons to serve, it would have been a futile thing to get the qualifications of a prosepctive female juror without a previous commitment from her to serve.

This Court in the *Hoyt* case (82 S. Ct. 166) on this point concluded by saying:

> "(9) Finding no substantial evidence whatever in this record that Florida has arbitrarily undertaken to exclude women from jury service, a showing which it was incumbent on appellant to make, *Hernandez v. Texas* supra, 347 U.S. at 479-480, 74 S. Ct. at 671; *Fay v. New York*, supra, 332 U.S. at 285, 67 S. Ct. at 1626, we must sustain the judgment of the Supreme Court of Florida. Cf. *Akins v. Texas*, supra."

Petitioner's contention is without merit.

THE IMPEACHMENT OF ACCUSED'S TESTIMONY BY THE TESTIMONY OF OTHER WITNESSES OF A PRIOR CONTRADICTORY STATEMENT MADE BY THE ACCUSED DID NOT VIOLATE HIS RIGHTS TO DUE PROCESS OF LAW EVEN THOUGH ALL WARNINGS UNDER *MIRANDA V. ARIZONA*, 384 U.S. 436, 86 S. Ct. 1602 WOULD NOT HAVE BEEN GIVEN HIM.

The facts upon which this complaint is made are as follows:

After the State had rested its case, the defense placed the accused on the stand and he gave his version of the events surrounding the offense. After the accused was tendered to the State for cross-examination, the district attorney, out of the presence of the jury, proved to the satisfaction of the trial judge the admissibility of a certain oral inculpatory statement made by the accused, as having been given free and voluntary in accordance with Louisiana law and having complied with the procedural safeguards required by *Miranda v. Arizona,* 384 R.S. 436, 86 S. Ct. 1602 (A. 122-126). The jury was then returned to the court room and the State then proceeded to cross-examine the accused in the presence of the jury. When the accused denied having made the said inculpatory and contradictory statement, the district attorney announced that he would impeach the accused's testimony by the testimony of other witnesses. (A. 135). This he did do under the provisions of Louisiana Revised Statutes, Title 15, Section 493, which reads as follows:

> "Whenever the credibility of a witness is to be impeached by proof of any statement made by him contradictory to his testimony, he must first be asked whether he has made such statement, and his attention must be called to the time, place and circumstances, and to the person to whom the alleged statement was made, in order that the witness may have an oppor-

tunity of explaining that which is prima facie contradictory. If the witness does not distinctly admit making such statement, evidence that he did make it is admissible."

The Louisiana Supreme Court, in reviewing the conviction, found that the oral inculpatory statement made by the accused was free and voluntary and that he had been given all the warnings required by *Miranda,* Supra. (A. 170-180).

Assuming for the purpose of argument that all warnings under *Miranda v. Arizona,* Supra. had not been given, the statement would have been admissible under the recent decision of *Harris v. State of New York,* 401 U.S. ____, 28 L. Ed. 2d 1 (February 24, 1971). The *Harris* case held that statements inadmissible against an accused in the prosecution's case in chief because of lack of the procedural safeguards required by *Miranda v. Arizona,* supra, may, if its trustworthiness satisfies the legal standards, be used for impeachment purposes to attack the credibility of accused's trial testimony. This decision was based on *Walder v. United States,* 347 U.S. 62, 74 S. Ct. 354 (1954) where the Court permitted physical evidence, inadmissible in the case in chief, to be used for impeachment purposes. In this case Walder was impeached as to collateral matters included in his direct examination, whereas Harris was impeached as to testimony bearing more directly on the crime charged. The Court was not persuaded that there was a difference in principle which would warrant a different result. The instant case falls within the purview of the *Harris* case. The evidence

showed that the statement was voluntarily given and that the police in no way coerced him into making the statement. Thus, it is clear that the statement was trustworthy.

The Court in the *Harris* case was of the opinion that the impeachment process is a valuable aid to the jury in assessing a petitioner's credibility, and the benefits of this process should not be lost because of the speculative possibility that impermissible police conduct will be encouraged thereby. The Court further felt that, assuming that the exclusionary rule has a deterrent effect on proscribed police conduct, sufficient deterrence flows when the evidence in question is made unavailable to the prosecution in its case in chief .

While we feel that the evidence is clear that all warnings required under *Miranda v. Arizona*, supra, were given, yet, conceding by way of argument that they were not given, this case comes squarely within the propositions set forth in *Harris v. New York*, supra, in which the court stated that "the shield provided by Miranda cannot be perverted into a license to use perjury by way of a defense, free from the risk of confrontation with prior inconsistent utterances."

Petitioner's contention is without merit.

CONCLUSION

The arguments presented by the petitioner on each of the foregoing issues are without merit and his petition for relief should be denied.

Respectfully submitted,

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CERTIFICATE

I, Bertrand De Blanc, attorney for the State of Louisiana, and a member of the bar of the United States Supreme Court, do hereby certify that a copy of the foregoing brief for respondent was served on the petitioner through his counsel of record, hereinbelow named, by placing the same in the United States mail, addressed to them at their offices with sufficient postage thereon annexed:

Jack Greenberg, James M. Nabrit, III, Charles Stephen Ralston, and Margrett Ford, 10 Columbus Circle, New York, New York, 10019, and Charles Finley, P. O. Box 3463, Lafayette, Louisiana, 70501.

_____

BERTRAND DE BLANC

APPENDIX

Statutes of Louisiana relating to jury selection.

Article 401. General qualifications of jurors

In order to qualify to serve as a juror, a person must:

(1) Be a citizen of the United States and of this state who has resided within the parish in which he is to serve as a juror for at least one year immediately preceding his jury service;

(2) Be at least twenty one years of age;

(3) Be able to read, write, and speak the English language;

(4) Not be under interdiction, or incapable of serving as a juror because of a mental or physical infirmity; and

(5) Not be under indictment for a felony, nor have been convicted of a felony for which he has not been pardoned.

Article 402. Service of women as jurors

A woman shall not be selected for jury service unless she has previously filed with the clerk of court of the parish in which she resides a written declaration of her desire to be subject to jury service.

Article 403. Exemption from jury service

The following persons are exempt from jury service, but the exemption is personal to them and is not a ground for challenge:

(1) The governor, lieutenant governor, state comptroller, state treasurer, secretary of state, superintendent of public education, their clerks and employees, the members, officers and clerks of the legislature, and the judges and active officers of the several courts of this state;

(2) Any other public official, if jury service would seriously interfere with the performance of his official duties;

(3) Attorneys-at-law, peace officers, ministers of the gospel, physicians and dentists actively engaged in the practice of their professions, school teachers, school bus drivers, pharmacists, members of paid fire departments, chief and their first assistants of bona fide volunteer fire departments, and persons who are required to travel regularly and routinely in the course and scope of their employment;

(4) Persons who because of age, sickness, or other physical infirmity would suffer serious detriment if required to serve as a juror; and

(5) Persons who have served as grand or petit jurors in criminal cases or as trial jurors in civil cases during a period of twelve months immediately preced-

ing their selection for jury service.

Article 404. Appointment of jury commission; term of office; oath; quorum

The jury commission of each parish shall consist of five members, each having the qualifications set forth in Article 401.

In Orleans Parish the jury commission shall be appointed by the governor, and the commissioners shall serve at his pleasure. In other parishes the jury commission shall consist of the clerk of court or a deputy clerk designated by him in writing to act in his stead in all matters affecting the jury commission, and four other persons appointed by written order of the district coure, who shall serve at the court's pleasure.

Before entering upon their duties, members of the jury commission shall take an oath to discharge their duties faithfully.

Three members of the jury commission shall constitute a quorum.

Meetings of the jury commission shall be open to the public.

Article 408. Selection of general venire in parishes other than Orleans

In parishes other than Orleans, the jury commission shall select impartially at least three hundred persons having the qualifications to serve as jurors, who shall

constitute the general venire.

A list of the persons so selected shall be prepared and certified by the clerk of court as the general venire list, and shall be kept as part of the records of the commission.

The name and address of each person on the list shall be written on a separate slip of paper which shall be placed in a box labeled "General Venire Box."

After the jury commission has selected the general venire, it shall lock and seal the general venire box and deliver it to the clerk of court, as the custodian thereof.

The jury commission shall meet at least once every six months and when ordered by the court, and may meet at any time to select or supplement the general venire. The commission may select a new general venire at any meeting, and shall do so when ordered by the court.

Article 410. Revising and supplementing the general venire

At each commission meeting to revise and supplement the general venire, the commission shall examine the general venire list prepared at the previous selection of the general venire, and shall delete therefrom the names of those persons who:

(1) Have served as civil or criminal jurors since the previous selection of the general venire; or

(2) Are known to have died or who have become

disqualified to serve as jurors since their selection on the general venire.

The slips bearing the names of those persons deleted from the general venire list shall be removed from the general venire box.

The commission shall then supplement the list prepared at the previous commission meeting and the corresponding slips in the box by selecting a sufficient number of additional persons in compliance with Article 408 or 409, whichever is applicable.

Article 411. Drawing of grand jury venire in parishes other than Orleans; disposition of slips; jury box

Upon order of the court the jury commission in parishes other than Orleans shall select by drawing indiscriminately and by lot from the general venire box the names of at least twenty but not more than fifty persons, with the number to be specified by the court in its order, who shall constitute the grand jury venire. A grand jury venire shall not be drawn from a general venire containing fewer than three hundred names.

The name of each person so selected shall be written on a slip of paper, with no designation as to race or color, in the presence of the commission, which shall place the slips in an envelope, seal the envelope, and write thereon the words "Grand Jury Venire."

The sealed envelope shall be placed in a box labeled "Grand Jury Box," which shall be locked and sealed and placed in the custody of the clerk of court for use at the next term of court, subject to the orders of the district court, as hereinafter provided.

Article 413. Method of impaneling of grand jury; selection of foreman

The grand jury shall consist of twelve persons qualified to serve as jurors, selected or drawn from the grand jury venire.

In parishes other than Orleans, the court shall select one person from the grand jury venire to serve as foreman of the grand jury. The sheriff shall draw indiscriminately and by lot from the envelope containing the remaining names on the grand jury venire a sufficient number of names to complete the grand jury. The envelope containing the remaining names shall be replaced into the grand jury box for use in filling vacancies as provided in Article 415.

In the Parish of Orleans, the court shall select twelve persons from the grand jury venire, who shall constitute the grand jury. The court shall thereupon select one of the jurors to serve as foreman.